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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/463,033

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P/2985-22

5787

7590

01/12/2006

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EXAMINER

KOENIG, ANDREW Y

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/463,033	FERRIS ET AL.	
	Examiner	Art Unit	
	Andrew Y. Koenig	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 43-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 43-52 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 52 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
4. Claim 52 recites, "displaying both the visual presentation of the incoming data and the broadcast programming on the portable handheld device." There is no disclosure to support this limitation, specifically, it is not supported that the broadcast programming is displayed on the portable handheld device. Accordingly, "the broadcast programming" will be treated as "broadcast programming" where broadcast programming is given the broadest reasonable interpretation in the art, of any programming that is broadcasted.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 43-47, and 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,002,450 to Darbee et al. (Darbee).

Regarding claims 43, 47, 49, 50, Darbee teaches a portable remote control including (i) a receiver for receipt of wireless incoming data transmission from a communication network, the data transmission from the communication network being independent from the transmission of the broadcast programming, in that Darbee teaches a radio frequency (RF) receiver (Rx) (fig. 2, label 48) from a long range transmitting device such as a paging network, a FM/SCA, a cellular phone, digital communication systems such as PCS, PDM, CDM, or other RF transmitting device (col. 6, ll. 14-18). Further, Darbee teaches (ii) a display (fig. 1 and 2, label 14) for visual presentation of the incoming data, said visual presentation having content related to the content of the displayed broadcast programming and being timed in relation to the time of the displayed broadcast programming, in that Darbee teaches sending advertisements (col. 3, ll. 18-23, col. 3, ll. 40-49, col. 4-5, ll. 66-7, col. 7, ll. 7-20) via the RF connection wherein the information on the remote control is a trailer from an

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advertisement appearing on a host device, and thus reads on the claimed being timed in relation to the time of the displayed broadcast programming. In addition, Darbee teaches an RF transmitter (Tx) for sending wireless outgoing data transmissions to the communication network, in that the user can respond to advertisements (col. 3, ll. 61-65, col. 7, ll. 7-20), which equates to (iii) a transmitter for sending wireless outgoing data transmissions to the communication network, wherein the communication network is a wireless wide area network, and Darbee teaches a keyboard (col. 4, ll. 63-67), which equates to (iv) a plurality of tactilely operated controls to permit the device to interact with the display appliance (see volume and channel controls) and the communication network.

Darbee fails to explicitly disclose that the remote control being handheld. Official Notice is taken that a handheld remote controls are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Darbee by using a handheld remote control in order to permit the user to move the device with ease and enable the user to easily access the device's controls.

Further regarding claim 47, claim 47 adds the limitation of a wireless wide area network, which is met by Darbee. Darbee teaches a radio frequency (RF) receiver (Rx) (fig. 2, label 48) from a long range transmitting device such as a paging network, a FM/SCA, a cellular phone, digital communication systems such as PCS, PDM, CDM, or other RF transmitting device (col. 6, ll. 14-18). Darbee teaches an RF transmitter (Tx) for sending wireless outgoing data transmissions to the communication network, in that the user can respond to advertisements (col. 3, ll. 61-65, col. 7, ll. 7-20), which equates

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to (iii) a transmitter for sending wireless outgoing data transmissions to the communication network, wherein the communication network is a wireless wide area network

Regarding claim 50, claim 50 adds the limitation of operating and actuator on the device to initiate the outgoing message to the communication network, which is taught by Darbee. Darbee teaches transactions by the user by pressing a button on the remote control (col. 3, ll. 50-58), and recognizes that the transmission can occur using different networks (in this case paging networks, etc – see col. 3-4, ll. 66-7).

Regarding claim 44, Darbee teaches displaying ads after the ad has disappeared from the TV and regular programming has resumed (col. 3, ll. 40-49, col. 7, ll. 16-20), which equates to the visual presentation on the device and the interaction of the device with the network may occur in real-time or near real time relative to the time of the displayed broadcast programming.

Regarding claim 45, Darbee teaches the display as a TV and the device as a remote control (3, ll. 40-49).

Regarding claim 46, Darbee teaches different device menus, as shown in figure 7 (col. 5, ll. 61-65) along with receiving codes to control a plurality of media presentation devices (col. 7, ll. 16-32), which equates to a controlling the operation of a plurality of media presentation devices.

Regarding claim 51, Darbee teaches volume/channel buttons (fig. 1, labels. 16,18, col. 4, ll. 65-66), which control an appliance that receives broadcast programming.

Regarding claim 52, Darbee teaches displaying both the visual presentation (advertisements) and broadcast programming on the portable device, in that since the advertisements are displayed in unison and after the advertisement is displayed on the display device, the broadcast programming timing information is at least sent to the portable device.

7. Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,002,450 to Darbee et al. (Darbee) in view of U.S. Patent 5,734,413 to Lappington et al. (Lappington).

Regarding claim 48, Darbee is silent on comparing time cue points in the incoming data to a real-time clock to time the device displays. In analogous art, Lappington discloses the device compares timing cue points in the incoming data to a real time clock to time the device displays (live events: column 10, lines 27-40; column 20, lines 63-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Darbee by comparing time cue points in the incoming data to a real-time clock to time the device displays as taught by

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Lappington in order to coordinate information of the display device thereby presenting information timely to the user.

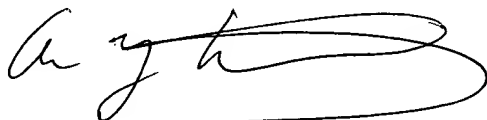
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ayk

A handwritten signature in black ink, appearing to read 'ayk', with a large, sweeping horizontal stroke underneath it.